

KWOK
“Meltblowing Method and Apparatus”
Atty. Docket No. 8010-61

New Continuation Application

REMARKS

Kindly enter this Preliminary Amendment prior to examination of the pending application.

The specification has been amended grammatically and idiomatically consistent with the amendments made thereto in the parent application.

Original Claims 1-47 have been canceled, and new Claims 119-147 have been added for consideration by the Examiner.

New Claim 119 is drawn to a “meltblowing system” comprising a “body member having a plurality of first fluid orifices” and a “plurality of filaments ... emanating from a corresponding one of the plurality of first fluid orifices” New Claims 120 and 121 depend from Claim 119 and recite limitations not previously considered.

New Claim 119 corresponds generally to former Claim 56 in the parent application, which was drawn to “a plurality of filaments” in combination with a “meltblowing apparatus” recited in a base claim from which Claim 56 was dependent.

New Claims 122-137 correspond generally to former Claims 66-81 in the parent application which were drawn generally to a “system” comprising a “... filament between the meltblowing apparatus and the moving substrate, the filament having a predominant vacillation amplitude non-parallel to the direction fo the moving substrate.”

Claims 120-121 and 138-147 are newly submitted for consideration.

No new matter has been added.

Response to Rejection Under 35 U.S.C. § 112

In the Official action 29 July 1999, former Claims 56, 67-69, 73-76 and 79 were rejected under 35 U.S.C. § 112, second paragraph for failure to “... positively recite any

apparatus structure (the filament and its characteristics form no part of the apparatus)” The Examiner alleged more particularly that the “filaments” do “... not further limit the apparatus claims principally because this limitation [the “filament”] does not further limit the physical structure of the apparatus.” Official action of 22 December 1999, page 4, para. 9. This rejection was maintained in the Advisory action of 8 February 2000, wherein the applicants’ contrary arguments were dismissed as being non-persuasive.

It is noted initially that the basis for the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, is not clear. More particularly, the Examiner does not allege that the “filament” limitations are indefinite. Rather, as noted, the Examiner merely alleges that the “filaments” do “... not further limit the physical structure of the apparatus.” Official action, 22 December 1999, page 4, para. 9.

The Applicants hereby requests that the Examiner state with greater particularity whether the rejection is for indefiniteness or for the failure to claim what applicants regard as the invention. *Ex parte Ionescu*, 222 USPQ 537, 539 (Bd. App. 1984) (The Examiner must explain whether a rejection based on 35 U.S.C. § 112, second paragraph, is for indefiniteness or the failure to claim what applicants regard as the invention.); M.P.E.P. § 2171.

It is submitted, that Claims 119-137 particularly point out and distinctly claim the subject matter of the invention in compliance with 35 U.S.C. 112, second paragraph. Particularly, the location and orientation of the “filament” limitations relative to the “body member” or “apparatus” are clear, concise and unambiguous and therefore not indefinite.

The “filaments” limitations are statutory structure under 35 U.S.C. § 101, as conceded by the Examiner, and thus are properly recited in combination with the other structural limitations recited in the claims, namely the “body member” of Claim 119 and the “apparatus” of Claims 123-125, 129-132 and 135.

Stated otherwise, the Claims are drawn to a combination of statutory subject matter. Claim 119 is drawn to a “body member” in combination with a “... plurality of filaments emanating from a corresponding one of the plurality of first fluid orifices [of the

body member], the plurality of filaments having a predominant vacillation amplitude between the two second fluid orifices on substantially opposing sides of the corresponding first fluid orifice.” Claim 122 is drawn to a “meltblowing apparatus” in combination with a “moving substrate” and a “filament between the meltblowing apparatus and the moving substrate, the filament having a predominant vacillation amplitude non-parallel to a direction of the moving substrate.”

The “filament” limitations need not “... further limit the physical structure of the apparatus ...” per se, as suggested by the Examiner. As noted above, the “filament” limitations are claimed *in combination* with the other limitations and limit the claims as a whole. *W.L. Gore & Assoc. v. Garlock, Inc.* 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983) (The claims must be considered as a whole.). In Claim 122, for example, the “moving substrate” limitation does not further limit the physical structure of the “apparatus”, yet the “substrate” limitation is not subject to a rejection for indefiniteness.

The Examiner’s allegation that the Claims are not in compliance with 35 U.S.C. 112, second paragraph, merely because the “filament” limitations (the location and orientation of which are otherwise clearly recited in the claims) do not further limit the physical structure of some other limitation in the claimed combination is thus improper and must be withdrawn.

For the reasons set out above and in the remarks of 27 September 1999 and of 21 January 2000, it is submitted Claims 119-125, 129-132 and 135 particularly point out and distinctly claim the subject matter of the invention in compliance with 35 U.S.C. 112, second paragraph, and that said rejections must be withdrawn.

Patentability of Claims Over U.S. Patent No. 5,667,750 (Nohr)

In the Official action 29 July 1999, former Claims 66-69 and 73-76 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,667,750 (Nohr).

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The Examiner alleged more particularly that Nohr "... teaches a meltblowing system (apparatus) including a meltblowing apparatus and a moving substrate. Official Action of 22 December 1999, page 3, para. 6.

Nohr however fails to disclose or suggest a "... filament having a predominant vacillation amplitude non-parallel to a direction of the moving substrate" as recited in new Claims 122-125 and 129-132, and the Examiner makes no allegation otherwise.

The Examiner acknowledges this deficiency of Nohr, but alleges that "... [t]he filament (and its characteristics) form no part of the apparatus structure", Official Action, 22 December 1999, page 3, para. 6, and on this basis, the Examiner disregards the "filament" limitations in the formulation of the rejection for anticipation by Nohr under 35 U.S.C. § 102.

The Examiner however must consider the claims as a whole and give patentable weight to each and every limitation thereof, *W.L. Gore & Assoc. v. Garlock, Inc.* 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), including the "filament having a predominant vacillation amplitude non-parallel to a direction of the moving substrate" of the subject Claims. Moreover, a claim is anticipated only if each and every limitation recited therein is disclosed in a single reference. *Verdegael Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053.

And since Nohr does not disclose a "filament having a predominant vacillation amplitude non-parallel to a direction of the moving substrate", the Examiner's has not stated a prima facie case for anticipation under 35 U.S.C. § 102. For these reasons, the rejections of the Claims for anticipation by Nohr are improper and must be withdrawn.

For these reasons and those set forth in the remarks of 27 September 1999 and 21 January 2000, Claims 122-125 and 129-135 are believed to be patentably distinguished and allowable over Nohr.

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Allowed and Allowable Claims

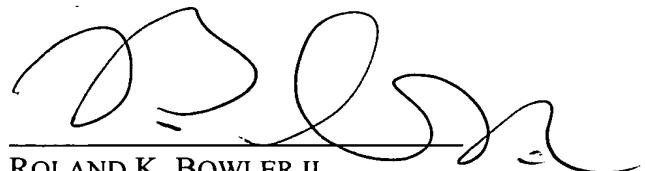
Former Claims 56 and 79 (corresponding to new Claims 119 and 135 of the present application) were indicated as being allowable if rewritten to overcome the objection under 35 U.S.C. 112, second paragraph. In view of the discussion above regarding the rejection under § 112, Claims 119 and 135 of the present application are also believed to be in condition for allowance.

Former Claims 70-72, 77, 78, 80 and 81 (corresponding to new Claims 126-128, 133, 134 and 135 of the present application) were indicated as being allowable if rewritten to include the limitations of the base and any intervening claims. In view of the discussion above regarding the patentability of the antecedent claims, Claims 126-128, 133, 134 and 135 of the present application are also believed to be in condition for allowance.

Kindly withdraw any rejections and objections and allow the pending claims of the present application to issue as a United States Patent.

The undersigned requests a telephone interview upon the Examiner's carefully reviewing this amendment and before preparing an Official action in response thereto.

Respectfully submitted,



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